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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,457

01/11/2006

Lawrence J. Abler

ASH-QUICK-US

7452

7590 05/14/2009
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Beverly Hills, CA 90210

EXAMINER

LAUX, JESSICA L

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

05/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,457	Applicant(s) ABLER, LAWRENCE J.	
	Examiner JESSICA LAUX	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 10 recites the limitation "the components" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5, 10-11, 13-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Ciotti (20020116878).

Claims 1-4, 11, and 16. Ciotti discloses an apparatus and method for transforming a plurality of shipping containers into an assembled multi-level building structure of a scale to accommodate human beings, the containers each having:

an external base wall (16) and at least one, or preferably two, floor extender sections (25) moveably mounted on the container;

where Ciotti discloses stacking two or more (where figure 2A shows at least four levels) containers stacked one atop the other with the base walls lowermost and the floor extender of the lowermost container is the lowermost first level of the building structure and the floor extender of the next higher container is the floor of that level and the ceiling of the next lower container (paragraph 0028); and

where level support members (30) are used for providing support to the next higher level.

Claims 5, 13-14. ...wherein the containers contain side wall panels (38) that are positioned and secured generally upright between the extended floor portion; and roof

Art Unit: 3635

panels (24) that are positioned on the uppermost level to provide a roof for extended portions of the building structure (paragraph 0028).

Claims 10, 15. ...wherein the base wall, upright wall and roof section are configured and arranged to be releasably connected to one another at the time of assembly (where they are hingedly connected as noted in the disclosure).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciotti (20020116878).

Claims 6-9. ...Ciotti discloses the apparatus and method as in the claims above, but does not expressly disclose the order or steps to assemble the containers one atop the other. It would have been a mere matter of design choice to one of ordinary skill in the art to position the upright side wall panels on any given level only after, or alternatively, before the floor extender panels of the next higher level have been moved into the extended position as this allows the walls to be correctly positioned between its respective floor and ceiling and the walls must be placed either before or after, therefore it would have been obvious to choose one for the construction of the building. Further applicant has not disclosed that either before, or after, provides an advantage, solves a problem or produces unexpected results. Rather applicant discloses either choice to be

Art Unit: 3635

equally suitable to the construction of the building. Therefore, absent any unexpected results it appears to be a mere matter of obvious design choice to place the walls before or after the floor extender of the next higher level is extended, which fails to patentably distinguish over the prior art.

Claim 12. ... Ciotti discloses the apparatus as in claim 11 above but does not expressly disclose a set of poles at each level connected at both ends to an upper and lower floor extender portion for supporting a next higher level. It is common and well known in the building art to use poles (columns, posts, studs, etc...) to support upwardly adjacent floor levels of a building. Therefore it would have been obvious as the time the invention was made to modify the construction of Ciotti to have poles as upper level support members as claimed as such a modification would provide support the next higher level during the construction process regardless of the whether the walls have been constructed or not, and if the walls are constructed first the poles would provide structural support taking the load off the walls thereby prevented damage to the walls and adding additional support for the building loads.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA LAUX whose telephone number is (571)272-8228. The examiner can normally be reached on Monday thru Thursday, 9:00am to 5:00pm (est).

Art Unit: 3635

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/J. L./
Examiner, Art Unit 3635